

**REMARKS**

Reconsideration and allowance of this application are respectfully requested. Claims 2-3, 5-6, 12-13, 15-16, and 21-22 are cancelled. Claims 1, 4, 7-11, 14, 17-20 and 23-34 remain pending in this application and, as amended herein, are submitted for the Examiner's reconsideration.

In the Office Action, claims 1, 4-7, 11, 14-17 23-24 and 29-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Utsonomiya (U.S. Patent Application Publication No. 2002/0066113) in view of Yoshida (U.S. Patent Application Publication No. 2004/0160863) and further in view of Takahashi (U.S. Patent No. 5,067,029). Claims 5-6 and 15-16 are cancelled. Applicants submit that the remaining claims are patentably distinguishable over the relied on sections of the references.

Independent claims 1, 8, 11 and 18 have each been amended to call for features previously recited in claims 6 and 16. No new matter has been added by these changes.

As amended herein, claim 1 recites:

the recordation control process executing section is adapted to compare a remaining capacity of the information recording means under data recording with a preset threshold, and in response to the remaining capacity becoming less than the preset threshold, to execute continuously the data recordation process to another information recording means.

(Emphasis added.) Neither the relied on sections of Utsonomiya, the relied on sections of Yoshida, nor the relied on sections of Takahashi disclose or suggest to compare a remaining capacity of an information recording means under data recording with a preset threshold. Moreover, neither the relied on sections of Utsonomiya, the relied on sections of Yoshida, nor the relied on sections of Takahashi disclose or suggest in response to a remaining capacity

becoming less than a preset threshold, to execute continuously a data recordation process to another information recording means.

Rather, the relied on sections of Utsonomiya describe that adding and recording consecutive recording information is repeated until a judgment is made that the available capacity of disk 18 is almost all gone. (See Fig.5 and ¶ [0056].) Obviously, a judgment cannot be made that the available capacity of the disk is less than all gone. Therefore, the relied on sections of Utsonomiya are not concerned with a judgment that the available capacity of the disk is less than a preset threshold since the comparison described in such sections is made to the capacity being all gone. Hence, these sections of the reference are not concerned with comparing a remaining capacity of an information recording means under data recording with a preset threshold, and these sections of the reference are not concerned with in response to a remaining capacity becoming less than a preset threshold, to execute continuously a data recordation process to another information recording means.

Neither the relied on sections of Yoshida nor the relied on sections of Takahashi overcome the deficiencies of the relied on sections of Utsonomiya.

It follows, for at least these reasons, that neither the relied on sections of Utsonomiya, the relied on sections of Yoshida, nor the relied on sections of Takahashi, whether taken alone or in combination, disclose or suggest the combination set out in claim 1. Claim 1 is therefore patentably distinct and unobvious over the relied on sections of the references.

Independent claim 11 calls for features similar to those set out in the above excerpt of claim 1. Therefore, claim 11 is patentably distinguishable over the relied on sections of

Utsonomiya, Yoshida, and Takahashi at least for the same reasons.

Claims 4, 7 and 23-24 depend from claim 1, and claims 14, 17 and 29-30 depend from claim 11. Therefore, each of these claims is distinguishable over the relied on art for at least the same reasons as the claim from which it depends.

Claims 8-10, 18-20, 26-27 and 32-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Utsonomiya in view of Yoshida in view of Koyama (U.S. Patent No. 6,122,010) and further in view of Takahashi. Applicants submit that the claims are patentably distinguishable over the relied on sections of the references.

As amended herein, independent claim 8 recites:

a recordation control process executing section for executing a selection process to select one of the plurality of information recording means having greatest of available capacities of the information recording means, for executing a data recordation process to the selected one of the plurality of information recording means, and for executing a process of generating control information to be used during data reproduction, for comparing a remaining capacity of the information recording means under data recording with a preset threshold, and in response to the remaining capacity becoming less than the preset threshold, for executing continuously the data recordation process to another information recording means[.]

(Emphasis added.)

For at least the reasons set forth above regarding claim 1, neither the relied on sections of Utsonomiya, the relied on sections of Yoshida, nor the relied on sections of Takahashi disclose or suggest comparing a remaining capacity of a information recording means under data recording with a preset threshold, and neither the relied on sections of Utsonomiya, the relied on sections of Yoshida, nor the relied on sections of Takahashi

disclose or suggest in response to a remaining capacity becoming, executing continuously a data recordation process to another less than a preset threshold information recording means.

The relied-on sections of Koyama do not overcome the deficiencies of the relied-on sections of Utsonomiya, Yoshida, and Takahashi.

Independent claim 18 calls for features similar to those set out in the above excerpt of claim 8 and therefore is patentably distinguishable over the relied on sections of Utsonomiya, Yoshida, Koyama, and Takahashi at least for the same reasons.

Claims 9-10 and 26-27 depend from claim 8, and claims 19-20 and 32-33 depend from claim 18. Therefore, each of the claims is distinguishable over the relied-on art for at least the same reasons.

Claims 25 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Utsonomiya in view of Yoshida in view of Takahashi and further in view of Levy (U.S. Patent No. 7,711,564). Applicants submit that the claims are patentably distinguishable over the relied on sections of the references.

Claim 25 depends from claim 1, and claim 31 depends from claim 11. Therefore, each of the claims is distinguishable over the relied-on sections of Utsonomiya, Yoshida, and Takahashi for at least the same reasons.

The relied-on sections of Levy do not overcome the deficiencies of the relied-on sections of Utsonomiya, Yoshida, and Takahashi.

Claims 28 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Utsonomiya in view of Yoshida in view of Koyama in view of Takahashi and further in view of Levy. Applicants submit that the claims are patentably distinguishable

over the relied on sections of the references.

Claim 28 depends from claim 8, and claim 34 depends from claim 18. Therefore, each of the claims is distinguishable over the relied-on sections of Utsonomiya, Yoshida, Koyama, and Takahashi for at least the same reasons.

The relied-on sections of Levy do not overcome the deficiencies of the relied-on sections of Utsonomiya, Yoshida, Koyama, and Takahashi.

Accordingly, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 103(a).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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